MONTANA LEGISLATIVE HISTORY

Chapter 317 1974

Bill H _____ S 553 Original bill & history ____C

H. Committee on Public Health, Welfare & Safety			S. Committee on Public Health, Welfare & Safety		
Hearing Date(s)	Feb 28	✓ C	Hearing Date(s)	Jan 23	✓ C
	Mar 02	✓ C		Feb 01	✓ C
	Mar 05	✓ C			C
		C			C
Date Out		C			

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

January 23, 1973

The fourth meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn on the above date in Room 405 of the State Capitol Building at 10 a.m.

ROLL CALL: All members were present with the exception of Senator McDonald.

Senator Flynn said only one bill, SB553, sponsored by Senators Lynch and Moore, was scheduled for hearing today. This bill would provide for the regulation and licensing of persons practicing acupuncture in Montana.

CONSIDERATION OF SENATE BILL NO. 553: Senator Flynn called on Senator Lynch, co-sponsor of the bill, who stressed the importance of having state regulations. He said Wyoming has passed a law to permit the practice of acupuncture, and that Montanans desiring treatment are going there or to Calgary, Canada. He told of two people he knows who are afflicted with arthritis who go to a doctor in Calgary once a month for treatment. True, he said, the relief may be temporary, but they do get relief; and the cost is minimal - $10.00 per treatment.

Senator Lynch introduced Mr. Frank Danichek from the University of Montana who spoke in favor of the bill. From conversations with Dr. E. J. Mullins, Acupuncturist of Cody, Wyoming, he said it is difficult to discuss theory in connection with acupuncture; that it is based in Chinese theory of philosophy of the universe. He said years of strenuous training are required to properly prepare one for the practice of acupuncture. Mr. Danichek told about an article in Newsweek magazine which described the use of acupuncture to treat drug addicts, with favorable results. A reprint of an article from True magazine, "Acupuncture - Amazing Cures for Many Ills" was distributed.

Senator Flynn next called on Senator Moore who introduced Mr. and Mrs. Evan Jacobson of Helena, both of whom have been treated by an acupuncturist in Calgary. Mr. Jacobson told about the marvelous results he and his wife have had as a result of the treatments. In answer to a question by one of the committee members, Mr. Jacobson said that doctor studied six years in China before coming to this country.

Senator Flynn asked if there were opponents to the bill who wished to speak.

A. D. Bloomstrom, M.D., representing the Montana Medical Association, called attention to a book, "Acupuncture in The Ancient Chinese Art of Healing". He pointed out that when we discuss acupuncture, we think of it in terms of using needles to control pain, but that actually it has to do with the whole Chinese art of healing. He said people sometimes ask if acupuncture is a form of hypnosis or if it is separate from hypnosis. In his book, Clinical and Experimental Hypnosis, he pointed out, Dr. Kroger says that "when used in surgery, acupuncture is slow-motion hypnosis". Dr. Bloomstrom pointed out that one of the concerns with the practice of acupuncture is complications resulting from the insertion of the needles and reported two instances of such complications in this country.

Al Dougherty, representing the Montana Chiropractic Association, recommended some changes in the bill. In Section 3, subsection 2, line 24, beginning with the last word on that line, "or", and continuing through line 6, page 2, he would strike in its entirety.

Referring to Section 5, he stated that if a board of acupuncture is created, it should have five members, each representing one of the realms of the medical profession - a doctor of medicine, a chiropractor, podiatrist, osteopath, and a dentist.

Mr. Dougherty then called attention to Section 10 of the bill, which says that the examination for licensing shall be done in the schools which offer courses leading to the degree of doctor of acupuncture, etc. He asked: "Where are such schools?" He suggested it might be required that a person applying present credentials and reputable evidence that he or she has studied acupuncture in a school of medicine.

He further recommended that Section 18 be deleted in its entirety.

In rebuttal, Senator Lynch stated it was interesting to note that only two cases have been reported in the U.S.A. of complications from incorrect insertion of needles. He said he was sure there have been mistakes by physicians but that their mistakes were probably buried. He said we should not turn our backs on those people in this state who are receiving relief from the practice but must travel to Calgary or to Cody, Wyoming for treatment. Senator Moore stated he was sure there are things wrong with the bill, but that he and Senator Lynch would be very willing to work with someone in an attempt to make the bill acceptable.

Senator Hall read a letter from Dr. Lester F. Howard of Great Falls expressing his feelings concerning the proposed bill. (Copy attached).

At this point Senator Lowe asked to be excused to attend another meeting.

Senator Flynn announced that SB678, which he sponsored, is very much the same as SB571, which was passed but has been re-referred to the committee. He suggested the two bills might be incorporated. Senator Bollinger, sponsor of SB571, volunteered to work with Ted Carkulis of the Department of Social and Rehabilitation Services to incorporate the two bills.

Senator Flynn announced that SB499, an act to license registered nurses as midwives, is scheduled for hearing on Friday, and that SB202, the 'paramedics' bill, is scheduled for hearing on Monday, Jan. 28.

DISPOSITION OF SENATE BILL NO. 553: Senator Bollinger suggested a subcommittee be appointed to re-write the bill and agreed to serve as chairman of such a committee. Senators Zody and Vainio were appointed to serve with him on the committee.

ADJOURN: There being no further business, the meeting was adjourned at 11:15 a.m.

Elmer Flynn

ELMER FLYNN, CHAIRMAN

DR. LESTER F. HOWARD
OSTEOPATHIC PHYSICIAN
1116 FIRST AVENUE NORTH
GREAT FALLS, MONTANA

January 14, 1974

Senator Boots Hall
Montana State Senate
Helena, Montana 59601

Dear Boots:

I read in the paper that a bill on acupuncture has been introduced in the Senate. The article, which would be misleading, stated that medical physicians and surgeons would automaticaaly qualify, while others would be required to take a test. The President's private physician, an osteopathic physician, is the man who brought back the information from China on acupuncture. Our profession has many leaders in this field and have been offering qualified courses in acupunture for some time. The only doctor with permission to use acupunture in British Columbia is one of our profession. The ones that Great Falls people have been seeing in Seattle are connected with an osteopathic hospital.

Would you please try to have recognition of the DO in this bill along with the MD? Candidly, I feel that there should be no exemptions, i.e., MD or DO—that everyone should have to take a test. There are many three-day courses available which, in my mind, would not be sufficient to qualify a person.

Sincerely,

Lester F. Howard, D.O.

LFH:hs

SB 553

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 1/23/74

NAME	PRESENT	ABSENT	EXCUSED
Chairman FLYNN, Elmer - D.	X		
Vice-Chairman VAINIO, Leonard - D.	X		
BOLLINGER, Gordon - D.	X		
BREEDEN, J. W. - R.	X		
COCHRANE, Archie - R.	X		
HALL, Mrs. Boots - D.	X		
HIMSL, Matt - R.	X		
LOWE, William - R.	X		
McDONALD, Jack - D.		X	
STORY, Pete - R.	X		
ZODY, A. A. - D.	X		

Each day attach to minutes

DATE 1-23-77

COMMITTEE ON Public Health BILL NO [illegible]

VISITOR'S REGISTER

NAME	REPRESENTING	BILL NO	Check One	
			Support	Oppose
A.D. Bloodstrom, MD	Mont. Veterinary Assn.	553		X
J. Finn-Finns	Montana Medical Assn.	552		X
AL Dougherty	Mont. Chiropractic Assn.	553		Amend
T.S. Benson D.C.	" " "	553		Oppose
Dr. S. Sartic	Mont Osteopathic Assn	553		Oppose
Linda Ballard	Mont State Practical Nurses	553		X
Thelma Mavanic	Mont State Practical Nurses	553		?
Dr. H. Wahlfeldt	Mont Dental Assn	553		X
Gertrude Morgan	Mont Dietetic Assn	553		X
Ralph P. Briggs	Montana Nurses Assn	553		X
Jennie Cromwell	Montana Nurses Assn	553		X
[illegible]	[illegible]	553		X
Shirley Saunders	[illegible]	553	X	
Evan Jacobson	myself	553	X	
Steve Shilley	Mt. Training			
Jack Shurtleff	Mt. Lawyer			
Dr. Joseph Dow	Mont. Chiropractic Assn.	553		Amend

(Please leave prepared statement with Secretary)

8-PAGE BONUS--COMPLETE GUIDE TO U.S. BASS FISHING

A FAWCETT PUBLICATION/FEBRUARY 1973

TRUE

06460

FOR TODAY'S ACTIVE MAN 60¢

TRUE REPORTS:
ACUPUNCTURE--AMAZING CURES FOR MANY ILLS

WOMEN'S MUSTACHES NEW KEY TO SEXCESS

HOW OUR SPIES STEAL EVERYONE'S SECRETS (Book Bonus from CIA: The Myth and the Madness)

WHAT YOU MUST KNOW BEFORE BUYING A DIAMOND

WATCH YOUR WALLET-- PICKPOCKETS AT WORK

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE
MONTANA STATE SENATE

February 1, 1974

The eighth meeting of the Public Health, Welfare and Safety Committee was called to order by Chairman Flynn on the above date in Room 405 of the State Capitol Building at 10 a.m.

ROLL CALL: All members were present with the exception of Senators Lowe, McDonald, Story and Vainio.

Chairman Flynn said that only one bill, SB631, was scheduled for hearing on this day, and that since Senator Lynch, the sponsor, was not yet present, the committee would hear a report from Senator Bollinger, Chairman of subcommittee on SB553.

Senator Bollinger reported that he and Senator Zody had met with Mr. Al Dougherty, Attorney at Law, and with Senators Lynch and Moore, sponsors of SB553. From these meetings, Mr. Dougherty had drawn up four proposed amendments to the bill, and copies were distributed to the committee members for their consideration (copy attached). Senator Bollinger read the proposed amendments and the rationale for each proposal.

Senator Himsl questioned the makeup of the state board, stating that without an acupuncturist or a layman on the board, he wondered what the chances were of an applicant ever being licensed. There was some discussion on this, and Senator Himsl moved that Proposed Amendment No. 2 be changed to require that the initial board shall consist of seven (7) members, a licensed medical practitioner, a licensed osteopath, a licensed chiropractor, a licensed podiatrist, a licensed dentist, a licensed acupuncturist, and a representative of the public. The motion was seconded by Senator Hall and carried unanimously.

Senator Bollinger moved the adoption of the proposed amendments. The motion was seconded by Senator Hall and carried unanimously.

Senator Bollinger moved that SB553 DO PASS AS AMENDED. The motion was seconded by Senator Zody and carried unanimously.

CONSIDERATION OF SENATE BILL NO. 631: Senator Lynch, sponsor of the bill, said it has been ten years since the surgeon general announced that cigarettes endanger one's health. He said, while we cannot stop people from smoking, perhaps by taxing cigarettes according to their tar and nicotine content, we can get people to smoke the least dangerous cigarettes.

Mr. Jim Madison of the Department of Revenue, speaking in opposition to the bill, said he opposes it from an administrative standpoint. He called attention to the stamp on the bottom of a

OFFICE 442-1440 RES. 442-1778

ALFRED F. DOUGHERTY
ATTORNEY AT LAW
14 NORTH JACKSON
P.O. BOX 553
HELENA, MONTANA
59601

JAN 28 1974

To: The Sub-Committee of the Senate Committee on Public Health, Welfare and Safety which is studying Senate Bill No. 553 (the proposed "Acupuncture Practice Act of 1974").

In accordance with my oral testimony at the public hearing on Senate Bill No. 553 on January 23, 1974, I submit for your consideration the following amendments which I hope will make the bill workable and protect the public interest in a manner desired by the bill's authors:

PROPOSED AMENDMENT NO. 1: Strike all the language beginning with the word "or" on line 24 of page 1 of the bill and ending with the word "effect" on line 6 of page 2 of the bill.

Rationale for the above proposal: The language proposed to be stricken is broad, general, and in some ways ambiguous. It could be interpreted to be in conflict with and even amendatory of definitions and practices of other licensed healing professions, namely, chiropractic, osteopathy, and physical therapy. The bill's authors do not intend to interfere with any existing licensed healing professions by enactment of Senate Bill No. 553; and therefore no such possibility should be risked.

- - - - - - - - - - - - - - - - - - - -

PROPOSED AMENDMENT NO. 2: Strike Section 5 of the bill, beginning on line 17 of page 2 of the bill and ending on line 17 of page 3 of the bill, in its entirety, and inserting in lieu thereof a new Section 5, to read as follows:

"Section 5. State board of acupuncture created--appointment and term of members. There is hereby created the Montana state board of acupuncture. The initial board of acupuncture shall be appointed by the governor within sixty (60) days after the effective date of this act and shall consist of five (5) members, appointed by the governor,

OFFICE 442-1440 RES. 442-1778

ALFRED F. DOUGHERTY
ATTORNEY AT LAW
14 NORTH JACKSON
P. O. BOX 593
HELENA, MONTANA
59601

JAN 28 1974

To: The Sub-Committee of the Senate Committee on Public Health, Welfare and Safety which is studying Senate Bill No. 553 (the proposed "Acupuncture Practice Act of 1974").

In accordance with my oral testimony at the public hearing on Senate Bill No. 553 on January 23, 1974, I submit for your consideration the following amendments which I hope will make the bill workable and protect the public interest in a manner desired by the bill's authors:

PROPOSED AMENDMENT NO. 1: Strike all the language beginning with the word "or" on line 24 of page 1 of the bill and ending with the word "effect" on line 6 of page 2 of the bill.

Rationale for the above proposal: The language proposed to be stricken is broad, general, and in some ways ambiguous. It could be interpreted to be in conflict with and even amendatory of definitions and practices of other licensed healing professions, namely, chiropractic, osteopathy, and physical therapy. The bill's authors do not intend to interfere with any existing licensed healing professions by enactment of Senate Bill No. 553; and therefore no such possibility should be risked.

- - - - - - - - - - - - - - - - -

PROPOSED AMENDMENT NO. 2: Strike Section 5 of the bill, beginning on line 17 of page 2 of the bill and ending on line 17 of page 3 of the bill, in its entirety, and inserting in lieu thereof a new Section 5, to read as follows:

"Section 5. State board of acupuncture created--appointment and term of members. There is hereby created the Montana state board of acupuncture. The initial board of acupuncture shall be appointed by the governor within sixty (60) days after the effective date of this act and shall consist of five (5) members, appointed by the governor,

with the consent of the senate, who shall be residents of the state of Montana, one (1) of whom shall be a licensed medical practitioner, one (1) of whom shall be a licensed chiropractor, one (1) of whom shall be a licensed osteopath, one (1) of whom shall be a licensed podiatrist, and one (1) of whom shall be a licensed dentist. Such initial board members shall serve until July 1, 1980.

"Not less than sixty (60) days prior to July 1, 1980, the governor shall appoint, with the consent of the senate, five (5) licensed and practicing acupuncturists to serve as the board of acupuncture from and after July 1, 1980. They shall be appointed for one (1), two (2), three (3), four (4), and five (5) year terms, respectively, as determined by the governor. Thereafter, the members of the board shall serve for a term of five (5) years, with their terms of office so arranged that one (1) term and only one (1) term shall expire on July 1 of every year. Any vacancy occurring in the membership of the board shall be filled by the governor by appointment for the unexpired term of such member. Members may be removed by the governor for cause after due notice and hearing."

Rationale for the above proposal: Testimony before the whole Committee on January 23 indicated general dissatisfaction with Section 5 of the bill as introduced. . . . There appeared to be a concensus no properly backgrounded acupuncturists presently reside and practice in Montana. . . . Hence a board composed as set forth in Section 5 would not be workable. . . . Therefore, I have proposed to comprise an initial board of acupuncture (which would have a designated life of six years) of one medical practitioner, one osteopath, one chiropractor, one podiatrist, and one dentist. All those professions have been trained and examined in anatomy, physiology, symptomatology, diagnosis, sanitation, hygiene, and similar disciplines; and members of those professions could reasonably be expected to launch a program of licensing acupuncturists with suitable safeguards designed to protect the public welfare and interest.

Certainly in a period of six years there would be at least two or three score acupuncturists licensed by such initial board, after which--on July 1, 1980--the board's function would be turned over to licensed acupuncturists.

While such a "shake down" period may be somewhat novel in the law, it appears to be reasonable and proper in such a case as acupuncture which has captured public attention so dramatically. If it is "an idea whose time has come," the above proposal will at

least allow its appearance in Montana to be orderly, regulated, and licensed in a safe and reasonable manner.

PROPOSED AMENDMENT NO. 3: At the end of Section 9, on line 5 of page 6 of the bill, strike the period and add the following language:

"or has completed a course in acupuncture offered by a college or school of medicine, osteopathy, chiropractic, dentistry or podiatry which is recognized and approved by the board of medical examiners, board of osteopaths, board of chiropractors, board of dentists, or board of podiatry examiners, as the case may be" approved by the board."

Rationale for the above proposal: The bill as introduced would require the applicant for examination to be a "graduate of an approved school of acupuncture." . . . The above proposal would broaden that requirement by recognizing that a graduate of an approved school of medicine, osteopathy, chiropractic, dentistry or podiatry who had completed a course in acupuncture in his schooling would be eligible to take the examination.

PROPOSED AMENDMENT NO. 4: Strike Section 18 in its entirety and in lieu thereof insert a new Section 18, to read as follows:

"Section 18. Acupuncture examinations for licensed doctors of medicine, osteopathy, chiropractic, dentistry and podiatry. Nothing in this act shall be construed to require doctors of medicine, osteopathy, chiropractic, dentistry and podiatry who are licensed in Montana to take further examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other subjects which are or may be required for licensure in their respective professions; but no doctor of medicine, osteopathy, chiropractic, dentistry or podiatry shall practice acupuncture in this state unless and until he has completed a course and passed an examination in acupuncture as required by this act."

Rationale for the above proposal: As introduced Section 18 of the bill would have grandfathered all licensed medical practitioners as authorized to practice acupuncture without examination. The witness for the Montana Medical Association who opposed the bill at the committee hearing himself admitted no doctors of medicine

licensed in this state now practice acupuncture and apparently none have any interest in it. The danger and folly of blanketing in some 200 licensed medical practitioners as legally qualified to practice a healing art about which they know nothing is self-evident.

The above proposal would require any doctor of medicine, osteopathy, chiropractic, dentistry, or podiatry to take a course and pass an examination in acupuncture in order to practice the art. That is as it should be if the public is to be accorded reasonable protection.

- - - - - - - - - - - - - - - -

If the above proposals are incorporated in Senate Bill No. 553, it will give the public security from exploitation and permit those people who desire to secure treatment by acupuncture to do so without traveling to other states or the provinces of Canada.

Respectfully submitted

Alfred F. Dougherty

ALFRED F. DOUGHERTY
Counsel for the Montana
Chiropractic Association

OFFICE 442-1440 RES. 442-1778

ALFRED F. DOUGHERTY
ATTORNEY AT LAW
14 NORTH JACKSON
P. O. BOX 592
HELENA, MONTANA
59601

JAN 28 1974

To: The Sub-Committee of the Senate Committee on Public Health, Welfare and Safety which is studying Senate Bill No. 553 (the proposed "Acupuncture Practice Act of 1974").

In accordance with my oral testimony at the public hearing on Senate Bill No. 553 on January 23, 1974, I submit for your consideration the following amendments which I hope will make the bill workable and protect the public interest in a manner desired by the bill's authors:

PROPOSED AMENDMENT NO. 1: Strike all the language beginning with the word "or" on line 24 of page 1 of the bill and ending with the word "effect" on line 6 of page 2 of the bill.

Rationale for the above proposal: The language proposed to be stricken is broad, general, and in some ways ambiguous. It could be interpreted to be in conflict with and even amendatory of definitions and practices of other licensed healing professions, namely, chiropractic, osteopathy, and physical therapy. The bill's authors do not intend to interfere with any existing licensed healing professions by enactment of Senate Bill No. 553; and therefore no such possibility should be risked.

- - - - - - - - - - - - - - - - -

PROPOSED AMENDMENT NO. 2: Strike Section 5 of the bill, beginning on line 17 of page 2 of the bill and ending on line 17 of page 3 of the bill, in its entirety, and inserting in lieu thereof a new Section 5, to read as follows:

"Section 5. State board of acupuncture created--appointment and term of members. There is hereby created the Montana state board of acupuncture. The initial board of acupuncture shall be appointed by the governor within sixty (60) days after the effective date of this act and shall consist of five (5) members, appointed by the governor,

with the consent of the senate, who shall be residents of the state of Montana, one (1) of whom shall be a licensed medical practitioner, one (1) of whom shall be a licensed chiropractor, one (1) of whom shall be a licensed osteopath, one (1) of whom shall be a licensed podiatrist, and one (1) of whom shall be a licensed dentist. Such initial board members shall serve until July 1, 1980.

"Not less than sixty (60) days prior to July 1, 1980, the governor shall appoint, with the consent of the senate, five (5) licensed and practicing acupuncturists to serve as the board of acupuncture from and after July 1, 1980. They shall be appointed for one (1), two (2), three (3), four (4), and five (5) year terms, respectively, as determined by the governor. Thereafter, the members of the board shall serve for a term of five (5) years, with their terms of office so arranged that one (1) term and only one (1) term shall expire on July 1 of every year. Any vacancy occurring in the membership of the board shall be filled by the governor by appointment for the unexpired term of such member. Members may be removed by the governor for cause after due notice and hearing."

Rationale for the above proposal: Testimony before the whole Committee on January 23 indicated general dissatisfaction with Section 5 of the bill as introduced. . . . There appeared to be a concensus no properly backgrounded acupuncturists presently reside and practice in Montana. . . . Hence a board composed as set forth in Section 5 would not be workable. . . . Therefore, I have proposed to comprise an initial board of acupuncture (which would have a designated life of six years) of one medical practitioner, one osteopath, one chiropractor, one podiatrist, and one dentist. All those professions have been trained and examined in anatomy, physiology, symptomatology, diagnosis, sanitation, hygiene, and similar disciplines; and members of those professions could reasonably be expected to launch a program of licensing acupuncturists with suitable safeguards designed to protect the public welfare and interest.

Certainly in a period of six years there would be at least two or three score acupuncturists licensed by such initial board, after which--on July 1, 1980--the board's function would be turned over to licensed acupuncturists.

While such a "shake down" period may be somewhat novel in the law, it appears to be reasonable and proper in such a case as acupuncture which has captured public attention so dramatically. If it is "an idea whose time has come," the above proposal will at

least allow its appearance in Montana to be orderly, regulated, and licensed in a safe and reasonable manner."

PROPOSED AMENDMENT NO. 3: At the end of Section 9, on line 5 of page 6 of the bill, strike the period and add the following language:

"or has completed a course in acupuncture ~~offered by a college or school of medicine, osteopathy, chiropractic, dentistry or podiatry which is recognized and approved by the board of medical examiners, board of osteopaths, board of chiropractors, board of dentists, or board of podiatry examiners, as the case may be,~~" approved by the board."

Rationale for the above proposal: The bill as introduced would require the applicant for examination to be a "graduate of an approved school of acupuncture." . . . The above proposal would broaden that requirement by recognizing that a graduate of an approved school of medicine, osteopathy, chiropractic, dentistry or podiatry who had completed a course in acupuncture in his schooling would be eligible to take the examination.

PROPOSED AMENDMENT NO. 4: Strike Section 18 in its entirety and in lieu thereof insert a new Section 18, to read as follows:

"Section 18. Acupuncture examinations for licensed doctors of medicine, osteopathy, chiropractic, dentistry and podiatry. Nothing in this act shall be construed to require doctors of medicine, osteopathy, chiropractic, dentistry and podiatry who are licensed in Montana to take further examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other subjects which are or may be required for licensure in their respective professions; but no doctor of medicine, osteopathy, chiropractic, dentistry or podiatry shall practice acupuncture in this state unless and until he has completed a course and passed an examination in acupuncture as required by this act."

Rationale for the above proposal: As introduced Section 18 of the bill would have grandfathered all licensed medical practitioners as authorized to practice acupuncture without examination. The witness for the Montana Medical Association who opposed the bill at the committee hearing himself admitted no doctors of medicine

licensed in this state now practice acupuncture and apparently none have any interest in it. . . . The danger and folly of blanketing in some 800 licensed medical practitioners as legally qualified to practice a healing art about which they know nothing is self-evident.

The above proposal would require any doctor of medicine, osteopathy, chiropractic, dentistry, or podiatry, to take a course and pass an examination in acupuncture in order to practice the art. That is as it should be if the public is to be accorded reasonable protection.

- - - - - - - - - - - - - - - - -

If the above proposals are incorporated in Senate Bill No. 553, it will give the public security from exploitation and permit those people who desire to secure treatment by acupuncture to do so without traveling to other states or the provinces of Canada.

Respectfully submitted

Alfred F. Dougherty

ALFRED F. DOUGHERTY
Counsel for the Montana
Chiropractic Association

ROLL CALL

PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 2/1/74

NAME	PRESENT	ABSENT	EXCUSED
Chairman FLYNN, Elmer - D.	X		
Vice Chairman VAINIO, Leonard - D.		X	
BOLLINGER, Gordon - D.	X		
BREEDEN, J. W. - R.	X		
COCHRANE, Archie - R.	X		
HALL, Mrs. Boots - D.	X		
HIMSL, Matt - R.	X		
LOWE, William - R.		X	
McDONALD, Jack - D.		X	
STORY, Pete - R.		X	
ZODY, A. A. - D.	X		

Each day attach to minutes

February 28, 1974

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE PROCEEDINGS:

A meeting of the Public Health, Welfare and Safety Committee was held on Thursday, February 28, 1974, at 10:30 a.m. in Room 428A with Chairman Bob Lee presiding. All members were present, except Reps. Asbjornson, Brown, Driscoll, Fagg, Hall, Marbut, Yardley, and Zimmer, who were excused.

SENATE BILL #678 -- SPONSOR: Sen. Gordon Bollinger. He introduced Mr. Ted Carkulis, SRS, who said this bill transfers the responsibility for the county portion of Medicaid funding to the state. He explained that this is the program for low-income people, and it is funded by the state, federal and county. The county portion is raised by property taxes. The bill would save money for each county; he submitted a table showing figures for this. He said counties are forced to fund this program, but they have very little control. The mill levy for the counties would be reduced from 17 to 7 1/2 mills. He added that HB #747 is the appropriation bill for this.

SENATE JOINT RESOLUTION #67 -- SPONSOR: Sen. Gordon Bollinger. This bill deals with care for veterans. He introduced Mr. Bob Durkee, Veterans of Foreign Wars, who said that this bill requires that someone in the state make a study of the need and availability of nursing care beds for veterans. Last September, the federal law was enlarged and Congress was desirous to have the states take over the operation of operating nursing care beds. In Kalispell, there are 40 beds available, but they already have 55 applicants. This resolution merely directs the department of institutions to study this matter.

3-5RJ

SENATE BILL #555 -- SPONSOR: Sen. Neil Lynch. He submitted copies of TRUE, and a list of the symptoms, illnesses, and diseases that acupuncture has treated, and he said the ones who support this bill are the people. The purpose of the bill is to license acupuncturists in Montana.

Mr. Frank Danicek, spoke briefly in support, since he has some extensive research on acupuncture.

Sen. Jim Moore, co-sponsor of the bill, said that acupuncture does exist and people in Montana and in the U.S. are interested in this practice and are availing themselves of it--and we cannot ignore that.

Mr. and Mrs. Edward Jacobson both testified as to the effect of the acupuncture treatments they have had. Mr. Jacobson said that he has had arthritis for 15 years, and from his acupuncture treatments, he is 75 percent better. The Jacobsons travel to Calgary for their treatments, and Mr. Jacobson said their acupuncturist told them he would be willing to move to Montana if licensing was provided because most of his patients were from Montana.

At this point, Vice-Chairman Norman took over the meeting as Chairman Lee had to attend another hearing.

Ms. Grace Martell, Missoula,--statement attached--told of her personal and favorable experiences with acupuncture.

OPPOSITION: Dr. Gaylen Stoner, president, Montana Board of Medical Examiners, said he was against the bill, but not against the practice

of acupuncture as such. This bill creates another board and is contrary to the Executive Reorganization Act. He said there are 15 states who have considered legislation such as this, but this is an adaptive matter because we have to consider that it is from a different culture. It is still in the experimental stage and there is not yet enough study on it. He streesed that Montana should leave it to the states who have the resources to do investigatory work on acupuncture, and added that this was a premature piece of legislation. One of his disagreements with acupuncture is that it does not have the qualifications for diagnosing and would open the door to people that we have no way of judging if they are qualified.

Mr. Duane Bloomstrom, Montana Medical Association, submitted copies of scientific literature on the NIGMS Acupuncture Research Conference, which was sponsored by the National Institute of General Medical Sciences. He said that acupuncture, with its concept of Ying and Yang, was "metaphysical humbug." He said proper diagnosis is absolutely mandatory before medical therapeutic action, and acupuncture treats the symptoms and the pain, but does not cure it. The harmful result may be that instead of treating and curing a disease or disorder, it may be that what was needed was proper treatment instead of just relief of pain. He said this law in the present form would prevent the development of licensed physicians practicing in the state now.

Dr. Carol Jones, anesthegiologist from Great Falls, said he was in favor of acupuncture, but opposed to SB #553 because it would limit his practice of anesthiogiology. He suggested that a person who practices acupuncture also be qualified in one of the other healing arts.

Mr. Jerry Loendorf, Montana Medical Association, said there have only been three states that have enacted laws, which require that the acupuncturist be under the supervision of a medical school.

Sen. Lynch said that there were other proponents present, but would not speak due to the lack of time. He introduced Mr. Al Dorrity, Montana Chiropractor Association, who said he had been opposed to the bill in the Senate at which time he suggested amendments, and now that they have been accepted, he is speaking on the proponent side of the bill in the House.

Rep. Olson asked whether there were any medical schools in the United States who taught acupuncutre. The reply was no, and the question raised as to how we could judge whether a person was qualified if there was no medical school that could appraise them.

SENATE JOINT RESOLUTION #53 -- SPONSOR. Sen. Neil Lynch. This resolution asks for a study of the profession of "physicians' assistants." OPPONENTS: Mr. Chad Smith, Montana Hospital Association, proposed an amendment to page 2, line 1, after the words "'physicians' assistants'" by inserting "to conduct public hearings after notice upon all matters under consideration". He felt this study was a good idea and should be studied, and his amendment would give notice to all interested people.

Meeting was adjourned.

Bob Lee

Bob Lee, Chairman

Ross Wong, Secretary

8-PAGE BONUS--COMPLETE GUIDE TO U.S. BASS FISHING

A FAWCETT PUBLICATION/FEBRUARY 197

TRUE

FOR TODAY'S ACTIVE MAN 60

TRUE REPORTS:
ACUPUNCTURE--AMAZING CURES FOR MANY ILLS

WOMEN'S MUSTACHES--NEW KEY TO SEXCESS

HOW OUR SPIES STEAL EVERYONE'S SECRETS (Book Bonus from CIA: The Myth and the Madness)

WHAT YOU MUST KNOW BEFORE BUYING A DIAMOND

WATCH YOUR WALLET--PICKPOCKETS AT WORK

SENATE BILL #553
February 28, 1974

February 28, 1974

Gentlemen:

Thank you for this opportunity to speak with you about my experience with acupuncture.

As briefly as possible I will try to tell you my background of pain and why I sought this help.

Since I was a young child, I have had back pain--due to Polio. The muscles were severely weakened on the right side and four vertebrae were stressed resulting in pressure on spinal nerves.

About ten years ago, the pain became almost intolerable. My family doctor referred me to a very fine orthopedic specialist in Missoula. After several weeks of X-Ray exams and cortisone injections in the spine without relief---he referred me to the Mayo Clinic. There I had one week of intensive tests. (If I missed one--it hasn't been invented). Three orthopedic surgeons, two neurosurgeons and an internist came to a unanimous decision that my case was inoperable for fear of complete disintegration of the involved vertebrae resulting in possible paralysis.

Now, I am one of those people who react poorly to medications. I have experienced visual trouble, dizziness, nausea, speech difficulty and extreme drowsiness. Consequently I tried never to take medication during the day--just at night so I could sleep. Mayo's gave me some more pain medication and put me in a back brace which I wore for nearly 18 months.

Finally, after the pain was not alleviated, I went to the Virginia Mason Clinic in Seattle. After the usual X-Rays, tests, etc. they took me out of the back brace, but with the same diagnosis. No surgery! More medication and just "tough it out"! I thought I had been doing just that for years and I was very discouraged.

From my friend, Mrs. Martell, I learned of her help from acupuncture and last February I went to New York City in desperation. I had eleven treatments at $15.00 each which I considered very nominal. However, transportation, room and food for three weeks were astronomical. But you see it was worth it to me for I no longer have that searing pain.

A point I would like to make is that people can get relief from pain through acupuncture and if they have the money they will go to qualified doctors on the East Coast, West Coast or Canada for acupuncture treatments. But many sufferers cannot afford costly travel expenses.

Acupuncture is a time proven adjunct to the healing art---several thousand years old. Its efficacy is beyond dispute. Today, courses for licensed physicians and dentists are being offered at Universities all over the nation to acquaint them with this procedure. The Junior class at the University of Washington Medical School is given a two week demonstration course. Thus, it is not a question of sanctioning acupuncture, but rather of a means of establishing quality control in the absence of the usual peer group such as the board of examiners of the Medical and Dental professions.

Please consider carefully------you are in a position to help the citizens of Montana. Let qualified acupuncturists with top credentials get licenses to practice in our state.

Thank you for your attention.

Helen P. Laine (Mrs. M.D.)

Helen P. Laine

Acupuncture statement to the House Committee on Public Health and Welfare.

Grace Martelli
1250 Hawes Street,
Missoula, Montana 59801

Ladies and gentlement, I have asked to speak here in favor of Senate Bill 553. First, I will give you the reasons I feel qualified to speak to you concerning acupuncture, then why I believe acupuncture is needed in Montana.

I have had 42 acupuncture treatments for degenerative osteoarthritis in my back and one hip. I've lived in the home of a Chinese acupuncturist for two periods--totaling 7½ weeks--and the doctor, a woman, visited for 3½ weeks at my home in Missoula. I have observed many treatments she has given others and have talked to dozens of her patients. I have talked to the doctor hour after hour about acupuncture. I've read many, many newspaper and magazine articles about it and four books on Chinese medicine and acupuncture.

I have had arthritis for 12 years. Many of those years I've been in severe pain. Prior to 1971 I'd been to three orthopedists and to the department of orthopedics at the Virginia Mason Clinic in Seattle. I spent one year in a brace from my upper chest to my lower thighs. I have taken every medication that could be prescribed for my condition. I'd had daily therapy for a period of two months. I begged one doctor to operate on my back. He refused, saying "that is not the answer." My regular doctor, an internist, finally told me there was nothing more that could be done.

I am a homemaker and for many years had been very active in community work. I found that most of my interests and my work had to be cut off partially or completely. That has been my situation except for two periods in the last three years. In December, 1971, I had 23 acupuncture treatments and was free of pain for 11 months. Then I strained my back severely in October, 1972. I had 14 more treatments in May, 1973, and had 7 more pain-free months. Last December I hurt my back again. I know I need more treatments now and probably will need them periodically the rest of my life because of the degenerative nature of my arthritis and because of my own determination not to be completely dependent on others.

(Let me say here that acupuncture is not a cure-all. It is not, in many cases, such as mine, a permanent end to pain. Many things cannot be treated. There are cases that acupuncture can help only partially. My Dr. Young will not touch cancer, viral or strep infections, or persons with extensive bone damage, heart trouble, or high blood pressure, or anemia and hepatitis until they are corrected. A condition that has existed for many years is difficult, sometimes impossible, to help. Old people do not respond to treatment readily.)

Let me preface the need for acupuncture in Montana by a few comments about pain. No one who hasn't had constant pain can know what it, eventually, does to a person. There is deep depression from not being able to carry your own load, and from knowing you are a drain on your friends and family and the family finances. There's a feeling of isolation that I can't describe--a loss of contact with friends and a dropping out of activities. A person with pain--or with some ailment or affliction for whom Western medicine has done all it can--will grasp at any straw in the hope of getting relief. I know this from my own experience and from the several hundred people who have called me for information.

Since acupuncture has become known in this country, it has offered hope to thousands. Hope is wonderful. If you have ever been without it, you will appreciate what I mean. If acupuncture is available anywhere, by anyone, desperate people are going to try to get it. Montanans are going to New York, California, Oregon, Washington, Nevada, and Canada--and probably many places I don't know of. That brings up my first point.

The cost of transportation, meals and lodging out-of-state can run from $25 to $60 a day easily. If many treatments are needed, the expense is prohibitive to most people. If time must be taken from work or home, there is an additional loss of time and money. Even if money is no problem, many persons are too ill to travel any distance.

The acupuncture treatments average about $25 each. My first 23 treatments cost $320. Compared to today's hospital charges of about $90 to $100 a day, acupuncture itself is reasonable. That is, providing the acupuncturist is qualified by education and experience, and will only give treatments for conditions which can be helped. That brings me to my second--and last--point.

Quackery is known in all areas, in all professions. In an area where so little is known, as in this country concerning acupuncture, quackery is a natural. Who is to determine the qualifications of an acupuncturist? Very few M.D.s know much about the actual practice. The patients know little if anything, except from pictures they may have seen. Acupuncture kits are available for $9.95 from a mail order place in Massachusetts. Hundreds of them have been sent to the west. Acupuncture charts, showing the meridians and acupoints can be bought for $1.95, and they are in English. With a little practice, any smart person could simulate an acupuncture treatment. There are many in this country who are practicing with only a few months training in so-called "Acupuncture Colleges."

Who is to evaluate? --that is, until someone is hurt or gets no help from treatments, he has few ways of judging. My doctor says there is only one neutral spot on the body, and she hesitates to use that, even for demonstrations, unless she has examined a person. Of the seven acupuncturists in New York Chinatown in 1971, Dr. Yeung would only refer patients to one. Of the others, she said, "They do not know" or "They are no good." There are, however, in this country, many good acupuncturists with proper training and experience who can prove their competence. There are examinations available.

There is a third point that I won't go into because I don't know enough about it. It does exist, though, I know. It is medication for pain or chronic illness. It is costly and may easily be addictive. I am glad to say that I've taken no medication for arthritis since Dec. 1, 1973, and have only had pain pills twice in almost three and a half years.

To this committee, I would like to say: Please make it possible for those of us who can be helped by acupuncture to get it from qualified people who have been examined and licensed and are controlled by the state--and help make it available where it is close enough so that we can afford to be treated. I believe this bill, as restrictive as it is, will make this possible eventually.

I have tried to be brief. Perhaps there are questions about acupuncture I can answer. I will be glad to do it.

Before I close, though, may I tell you just one story about a woman who was being treated for nerve deafness? --

814 Marshall Street
Missoula, Montana
February 20, 1974

Re: S.B. 553

District 18 Representatives
Montana State Capital Building
Helena, Montana

Dear Sirs:

I have learned that it will be impossible for me to attend the committee meeting of the Health and Welfare committee on Thursday February 28th, thus I am taking this method to get this information into your hands before you act on S.B. 553.

As a registered Xray Technologist, I have been a part of the medical profession for the past 29 years and I have a great deal of honor and respect for that entire profession.

In September 1960, it became necessary for me to have a tumor surgically removed from the right omental wall. I agreed to have one anesthesiologist and the injection of sodium pentathal as the anesthetic. When I awoke I realized severe pain of the entire right leg, and learned that I had been anesthetized via a spinal injection by an anesthesiologist, not of my choice. It subsequently developed that the problem involving my entire right leg from the base of the spine to, and including, the sole of the foot, resulted from the sciatic nerve having been disturbed during the spinal injection. All efforts by several Missoula doctors failed to relieve the excruciating pain. Trips to neurosurgeons, and neurologists in Spokane, Great Falls and the University of Minnesota over the next few years netted nothing. I was told that scar tissue had formed on the nerve covering, and that further surgery would cause the loss of the use of my leg. In spite of my begging them to do something, none would touch the situation and had no other form of treatment to offer, and I was told that I would have to "learn to live with the condition". I continued in this state of severe pain constantly for 11 years. Many times I would lie awake at night and wonder to myself, just what kind of an instrument I could use to sever the nerve, in hopes that it would relieve the pain for just a little while.

In April, 1972, I was introduced to an acupuncturist from an other state. On a friend to friend basis, our conversation led to the fact that she felt she could help me with my painful problem (after hurting so much for so long I was willing to try one more method, tho' in my mind it offered only a vague chance of relief, 11 years of constant pain makes one desparate for relief.

After 5 treatments in the home of a friend, I was, and still am rid of that unbearable pain with the exception of an occasional pain in the foot.

I consider the opportunity to have had the acupuncture treatments one of the greatest events in my life, and would sincerely hope that this method of treatment can be made available to any Montanan who would desire it. In my humble opinion, Montana should be as advanced in this area, as are some of the other states where this type of treatment is available. I feel that it is most important, that those who would practice this kind of treatment in our State should be highly qualified.

I hope that you will consider voting in favor of this bill, in order that other Montana people may have the chance I had, without leaving Montana.

Sincerely,

Mrs. Dale Dehlgren

834 Marshall Street
Missoula, Montana

SENATE BILL 1553
Submitted by Dr.
Bloomstrom
February 28, 1974

SUMMARY STATEMENT

on

NIGMS ACUPUNCTURE RESEARCH CONFERENCE

February 28 - March 1, 1973

On Wednesday and Thursday, February 28 and March 1, the first national acupuncture research conference was held in Bethesda, Maryland. The conference, sponsored by the National Institute of General Medical Sciences, brought together about a hundred American scientists and physicians to report studies already under way or about to be started.

On the basis of the results presented at the conference, the ad hoc Committee on Acupuncture of the National Institutes of Health, concluded that acupuncture holds some promise as an anesthetic for certain surgical operations and for the treatment of some acute and chronic painful conditions. From these preliminary studies, however, it is not possible to specify how acupuncture works or even to say how well it compares with drug-induced anesthesia or with well-established methods of treating painful conditions.

Moreover, it is clear that acupuncture is no panacea—that many more well-designed and well-controlled scientific studies are needed before it could be considered for wide use in clinical practice in the United States.

One of the serious problems in evaluating acupuncture for relief of pain is that pain itself is a complex phenomenon which also should receive greater scientific research efforts. Since it is now well established that environmental, genetic, cultural, ethnic, and other factors influence pain and a patient's response to drugs, it is essential to assess the effects of acupuncture and its efficacy in American patients. When these dates are available it will be possible to compare our results with those already published in the People's Republic of China. In this regard it would be of great value to develop an exchange program of American and Chinese scientists and physicians, and also to provide for the exchange of information.

By: Dr. John J. Bonica
Conference Chairman and
Professor and Chairman,
Department of Anesthesiology
University of Washington
School of Medicine
Seattle, Washington 98195

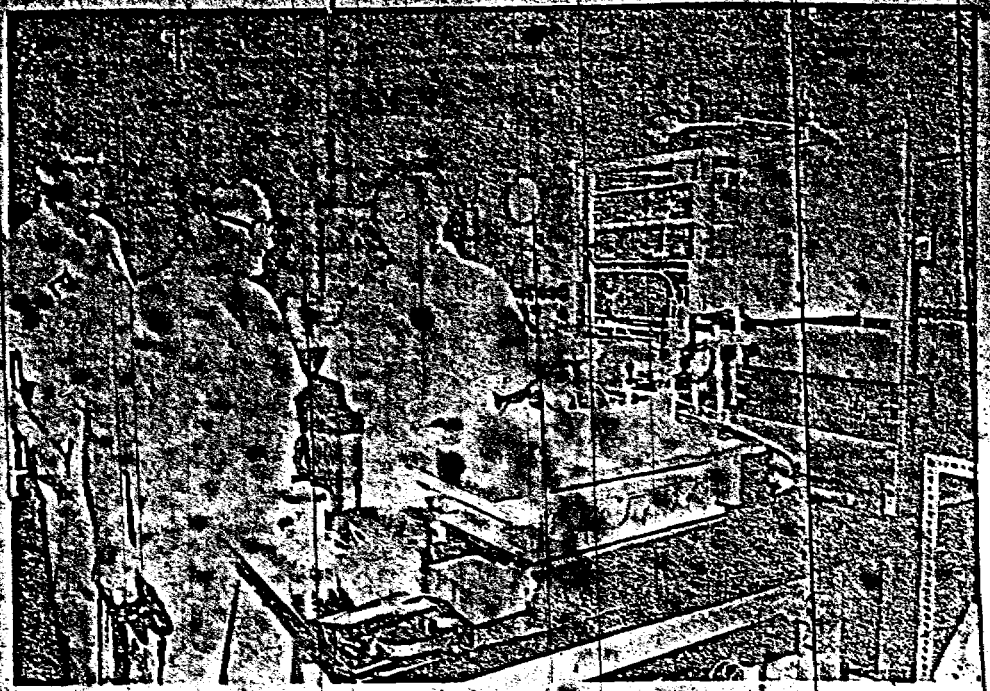


FIG. 6. Professor Chang Tsiang-Tun describing his neurophysiologic preparation used to study acupuncture analgesia to the author and Dr. Philip Lee at the Shanghai Institute of Physiology.

the usual disturbances of surgical pneumothorax. One previous report indicated that a pneumothorax is induced four or five days prior to the operation to permit the patient to become adapted to the collapsed lung.[7] However, none of the anesthesiologists I spoke to was using this procedure.

The anesthesiologist usually sees the patient the day before the operation and reemphasizes the advantages of acupuncture analgesia, as well as the disadvantages and side-effects and complications of chemical anesthesia. If the surgeon has not done so, the anesthesiologist explains the sensations elicited by the acupuncture needle as "slight local soreness and a feeling of distention which spreads from the site of needling and eventually the patient develops numbness." The patient is also informed of the sensation he will feel with the surgical incision ("a feeling of coldness across your neck") and other surgical maneuvers, such as traction on the trachea and neck muscles during thyroidectomy, or feeling of traction or heaviness within the abdomen or chest. Patients who are to undergo thoracotomy are told that they will probably experience shortness of breath, a feeling of heaviness, or inability to breathe—all of which are important signs for the patient to breathe with the diaphragm as previously instructed. Some anesthesiologists use trial acupuncture to elicit the aforementioned sensation of soreness and distention and development of numbness. If the patient does not experience these, he or she is considered not a good candidate for the procedure.

In addition to the psychologic preparation, there is preanesthetic medication, usually consisting of a moderate dose of barbiturate or other sedative the night before and a narcotic (e.g., 75 mg meperidine) one hour before operation. Not infrequently this is supplemented with intravenous injection of a modest dose of narcotic

abandoned in some (many?) hospitals. During the six years preceding the Cultural Revolution only one article on its use for surgical anesthesia was published in major medical journals.[3] From the guarded comments made by several anesthesiologists, I concluded that this disuse was the result of disappointing failures in a significant proportion of patients. During the Cultural Revolution this negative trend of not using acupuncture was considered the work of revisionists, and subsequently greater emphasis was given to the widespread use of acupuncture in all hospitals.

The reports of previous American visitors to the People's Republic of China have given the American medical community and public the impression that acupuncture anesthesia is being used widely there for many, if not most, operations,[4-6] but I found this not to be the case. From data given me by anesthesiologists and surgeons in hospitals we visited, I estimate that acupuncture anesthesia is being used in 5 per cent or less of the operations done in three commune hospitals, 10 per cent or less of the cases in four hospitals, and in 10–15 per cent of the operations in the rest. Only the Shen Yang Traditional Medicine Hospital reported that 60–80 per cent of the 300–500 operations a year are done with acupuncture anesthesia. No accurate statistics on the total number of acupuncture anesthesias are available, but according to some newspaper accounts,[3] it has been used for 400,000 to 600,000 operations since it was introduced 15 years ago. Assuming that most of these anesthesias were done since the onset of the Cultural Revolution in 1966 (when its use was markedly increased), even the higher figure accounts for a little more than 1 per cent of the operations done during this seven-year period.

Among the physicians with whom I spoke, there was unanimity of opinion regarding the indications, advantages, disadvantages, and limitations of acupuncture anesthesia, which were cited with so much sameness that one is tempted to believe these have been made national policy. Advantages claimed include complete safety with no physiologic disturbance of the patient, the technique is simple and requires no elaborate equipment, during the operation the patient can cooperate with the surgeon, as, for example, in thyroid surgery, and there is no postanesthetic morbidity or residual depression, and consequently the patient can ambulate promptly; nor is there nausea and vomiting so that patients can take nutrient by mouth as soon as they return to the ward. However, when I pressed some of these issues, some of the anesthesiologists did admit that in most instances it is better to use chemical anesthesia, especially in maintenance operations. In regard to indications, every respondent stated that acupuncture anesthesia is best for thyroidectomy and other neck operations and for superficial operations on the face, nose, and throat, and superficial operations on the trunk and limbs. It is used in 95 per cent of thyroidectomies with a 95 per cent success rate.

Selection and Preparation of Patients

In response to repeated questions about criteria used for selection of patients for acupuncture anesthesia, the answers were vague and varied. Everyone emphasized the importance of properly selecting and preparing the patient for this method, but no specific criteria were given. The decision to use this method is usually made by the surgeon, who tells the patient that he or she is a good candidate for acupuncture. Although the patient is said to have a choice, I gained the impression that by the time the surgeon finishes his discussion it is difficult for a patient to refuse acupuncture. The surgeon emphasizes that: 1) this is a new Chinese invention which resulted from the great teachings of Chairman Mao; 2) it does not harm the body, whereas chemical anesthesia has serious toxic effects. All respondents emphasized the importance of avoiding acupuncture in nervous, apprehensive, or anxious patients because these usually fail to achieve good results. It is also important that the patient be in good physical condition, without serious systemic disease and with no adhesions or other complications in the area of operation. Patients who undergo intrathoracic operation are admitted to the hospital several days prior to surgery to practice abdominal breathing under the instruction and supervision of the nurses. The Chinese believe this is essential to prevent

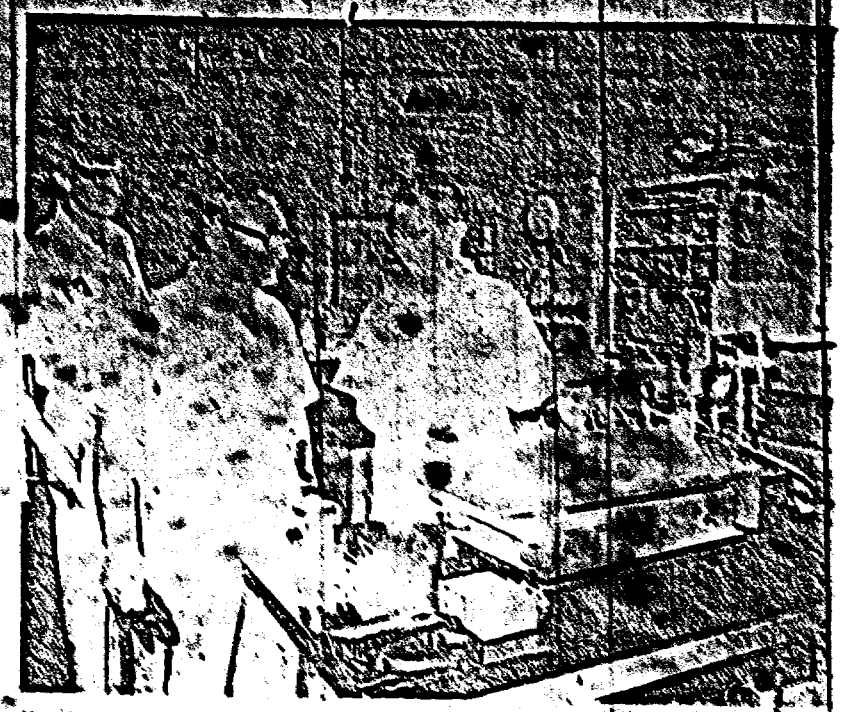


FIG. 8. Professor Chang Tsung-Tuy describing his neurophysiologic preparation used for analgesia to the author and Dr. Philip Lee at the Shanghai Institute of Phys

the usual disturbances of surgical pneumothorax. One previous report indicated that a pneumothorax is induced four or five days prior to the operation to permit the patient to become adapted to the collapsed lung.[7] However, none of the anesthesiologists I spoke to was using this procedure.

The anesthesiologist usually sees the patient the day before the operation and reemphasizes the advantages of acupuncture analgesia, as well as the disadvantages and side effects and complications of chemical anesthesia. If the surgeon has not done so, the anesthesiologist explains the sensations elicited by the acupuncture needle as "slight local soreness and a feeling of distention which spreads from the site of needling and eventually the patient develops numbness." The patient is also informed of the sensation he will feel with the surgical incision ("a feeling of coldness across your neck") and other surgical maneuvers, such as traction on the trachea and during thyroidectomy, or feeling or heaviness within the abdomen. Patients who are to undergo are told that they will probably experience shortness of breath, a feeling of fullness or inability to breathe—all important signs for the patient with the diaphragm as previously. Some anesthesiologists use traction to elicit the aforementioned sensations of soreness and distention and development of tightness. If the patient does not experience these, he or she is considered a poor candidate for the procedure.

In addition to the psychological preparation, there is preanesthetic medication, usually consisting of a moderate dose of morphine or other sedative the night before and a narcotic (e.g., 75 mg meperidine) 1 hour before operation. Not infrequently, this is supplemented with intravenous

Techniques

Initially, acupuncture anesthesia was achieved with numerous needles (as many as 50–90) inserted into traditional acupuncture points in the four extremities, face, and trunk by four to six acupuncturists. With development of the technique, this was gradually reduced to three to five needles. In some cases only one needle is used. Some still use manual twirling, but most operators use electrical stimulation, usually 125–150 cycles per minute employing 6–9 volts which deliver 3–9 milliamperes. In a demonstration I requested of one colleague, the insertion of the needle through the skin of my forearm was painless, but the location of the acupuncture point and the needle twirling were uncomfortable. The anesthesiologist locates the acupuncture point by a feeling of "heaviness and vibration." Induction of analgesia usually consumes 15–20 minutes, but at times it takes longer. After the feeling of local soreness and distention, the patient develops a subjective numbness, but no demonstrable area of analgesia to pin prick or other sensory stimulation. The acupuncture is done either by an acupuncturist with an anesthesiologist in attendance in the event of failure, or by anesthesiologists who have had 2–4 months of training in the technique. In traditional hospitals and some Western-type hospitals, surgical analgesia is also achieved by acupressure, which entails exerting marked pressure over certain acupuncture points instead of inserting needles. An intravenous narcotic is often given at the beginning of the operation. In addition, surgeons often inject 1–2 per cent procaine into the thoracotomy incision and hilum of the lung, and into the parietal peritoneum just prior to laparotomy.

Personal Observations

I personally observed 13 patients undergoing operations with acupuncture analgesia alone, including four patients undergoing thyroidectomy; three, lobectomy; one, mediastinal tumor; two, partial gastrectomies; one, hysterectomy; one, renal operation; one, operation in the lower limb; two, tooth extraction with acupressure. Of these 13 patients, two showed obvious facial expression, shivering, and other signs of pain during incision of the skin, but on questioning denied having felt discomfort. About a third of the patients developed significant changes in heart rate and blood pressure, flushing of the face, muscle tension, and other signs of reflex responses to noxious stimulation. All six patients who underwent thoracotomy manifested signs and complained of symptoms of serious ventilatory and circulatory alterations, such as dyspnea, hypoxia, and paradoxical breathing (despite repeated instructions to the patient to breathe abdominally).

Conclusions and Questions

I have no doubt that acupuncture analgesia is effective in permitting operation in certain highly selected patients. However, in reviewing the information I obtained, several perplexing points emerge:

(1) There is great variation in the numbers of needles used and the sites of needling, not only among different anesthesiologists but by the same operator. I saw four thyroid operations being done with three different techniques of acupuncture.

(2) Although every respondent claimed that the needles were inserted along traditional acupuncture points, in a number of cases I saw the needles were inserted not through classic acupuncture points but parallel or perpendicular to spinal nerves. When I questioned this discrepancy and seemed puzzled, I was told that the procedure is still experimental and they are trying to determine the best technique for each specific operation.

(3) If acupuncture is in fact harmless, I wonder why it is not taught to surgeons and nurses who work in commune and district hospitals, which usually lack complicated anesthetic machines and trained personnel. I would think that the advantages mentioned above would be especially important under such circumstances.

(4) Another paradox relevant to the above is that if the technique is harmless, why not use it in poor-risk patients, e.g., patients with poor pulmonary function, bronchiectasis, extensive pulmonary disease, or those in poor physical condition because of complicating disease.

Fig. 7. Open-heart surgery using extracorporeal circulation at the Fu-Wa Cardiovascular Diseases) in Peking. Pump technicians and other personnel are under the supervision of the anesthesiologist.

Research on Acupuncture Anesthesia

I was disappointed to learn that there has been virtually no clinical research done on patients operated upon under acupuncture anesthesia. This is especially surprising in regard to intrathoracic operations, in view of the fact that anesthesiologists and surgeons are fully appreciative of the problems of surgical pneumothorax and they do have the personnel and equipment capable of making appropriate measurements. I was informed that "a few" studies of blood gases had been done in "a few" patients in Peking and Shanghai, showing a modest rise in P_{CO_2} and slight decrease in pH, but there are virtually no data on oxygen tension.

In contrast, basic neurophysiologic research is being done to determine the mechanisms of acupuncture analgesia in several research institutes. In Shanghai I had the pleasure of being the guest of Professor Chang Tsiang-

Tun, a highly respected who spent 13 years i and for the past 17 y of the Brain Research Se Institute of Physiology Revolution he and h devoted most of their of mechanisms of acup nats, rabbits, and cats, which suggests that ele certain acupuncture poi tors in muscles which produce prolonged sy several sites in the ce tem. [1] They have fou nuclei centralis lateralis of the thalamus give ri unit discharges in respons and that these discharge electrical needling of c points, squeezing the A weak electrical stimulation

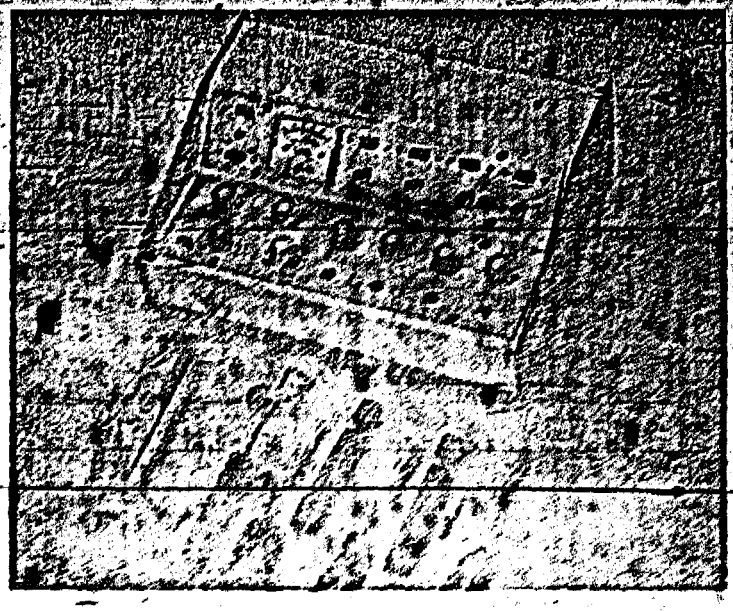
FIG. 7. Open-heart surgery using extracorporeal circulation at the Fu-Wai Hospital (Institute for Cardiovascular Diseases) in Peking. Pump technicians and other personnel monitoring the patient are under the supervision of the anesthesiologist.

RESEARCH ON ACUPUNCTURE ANESTHESIA

I was disappointed to learn that there has been virtually no clinical research done on patients operated upon under acupuncture anesthesia. This is especially surprising in regard to intrathoracic operations, in view of the fact that anesthesiologists and surgeons are fully appreciative of the problems of surgical pneumothorax and they do have the personnel and equipment capable of making appropriate measurements. I was informed that "a few" studies of blood gases had been done in "a few" patients in Peking and Shanghai, showing a modest rise in P_{aCO_2} and slight decrease in pH, but there are virtually no data on oxygen tension.

In contrast, basic neurophysiologic research is being done to determine the mechanisms of acupuncture analgesia in several research institutes. In Shanghai I had the pleasure of being the guest of Professor Chang Tsiang-Tun, a highly respected neurophysiologist who spent 13 years in the United States and for the past 17 years has been head of the Brain Research Section of the Shanghai Institute of Physiology. Since the Cultural Revolution he and his colleagues have devoted most of their efforts to the study of mechanisms of acupuncture analgesia in rats, rabbits, and cats. They have evidence which suggests that electrical stimulation of certain acupuncture points stimulates receptors in muscles which evoke impulses that produce prolonged synaptic inhibition in several sites in the central nervous system.[11,12] They have found that cells in the nuclei centralis lateralis and parafascicularis of the thalamus give rise to characteristic unit discharges in response to noxious stimuli and that these discharges are inhibited by electrical needling of certain acupuncture points, squeezing the Achilles tendon, or weak electrical stimulation of a sensory nerve.

B.X. & L. INDUSTRIES, INC. presents the most complete line of electronic equipment for electro-acupuncture, and acupuncture anesthesia!



— MODEL DHW 3B-4WF NET PRICE $589.00

This is a Multi-wave form AC-DC stimulator/acupoint finder and meridian balance meter, the most sophisticated, and the most advanced instrument made. DHW3B-4WF is the top of the line, "all in one instrument", specially designed to achieve the utmost in electro acupuncture and acupuncture anesthesia. This super instrument provides a professional user with everything he needs for a serious practice of acupuncture. A comprehensive list of features that are unmatched in any other instrument is outlined below:

1. ***Multi-waveforms***
   - a) Adjustable single pulse, dense disperse, square and saw-tooth waveforms.
   - b) Adjustable (envelope) frequencies — six combinations.
   - c) Adjustable pulse rate (from 0.5 pulses to 200 pulses/sec.)
   - d) Total of 216 possible combinations.
   - e) D.C. stimulation.
2. ***Multi-Outputs***
   - a) Up to 4 outlets (8 needles)
   - b) Independent output control.
   - c) Output current of each outlet can be monitored separately by a microameter.
   - d) Each stimulator outlet function can be converted to a meridian balance meter for diagnostic purposes by the flip of a switch.
3. Meridian balance
   - a) Meridian balance can be diagnosed using cup electrodes through the point finder outlet of the instrument.
   - b) or, with needles in position through the stimulator outlets.
4. Acupoint finder
   - a) Adjustable sensitivities.
   - b) Unique sonic indicator: the pitch rises as point is located.
5. Unique Design of Acupoint finder probes
   - a) The larger diameter point finder probe locates the area roughly.
   - b) The opposite side then pinpoints the place accurately and leaves the mark for precise insertion of the needle.
   - c) Third side of the point finder probe has a "cup electrode" to accept a cotton ball for meridian balance diagnosis.
6. Cup electrodes — Provided with each instrument for electrical stimulation without the need of needles (stimulator side).

"CAUTION": Experimental device limited to investigational use by or under the direct supervision of a licensed medical or dental practitioner. This device is to be used only with informed

6. Cup electrodes	Provided with each instrument for electrical stimulation without the need of needles (stimulator side).

"CAUTION": Experimental device limited to investigational use by or under the direct supervision of a licensed medical or dental practitioner. This device is to be used only with informed consent under conditions designed to protect the patient as a research subject, where the scientific protocol for investigation has been reviewed and approved by an appropriate institutional review committee and where conditions for such use are in accordance with State Law.

NOTE: Sections 66-1010 through 66-1049 constitute the Medical Practice Act enacted in 1969 and set forth here verbatim.

This act shall be known as the "Medical Practice Act." (66-1010)

It is hereby declared, as a matter of legislative policy in the state of Montana, that the practice of medicine within the state of Montana is a privilege granted by the legislative authority and is not a natural right of individuals and that it is deemed necessary, as a matter of such policy and in the interests of the health, happiness, safety and welfare of the people of Montana, to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of medicine and to license competent physicians to practice medicine and thereby provide for the health needs of the people of Montana. (66-1011)

(1) For the purpose of this act the term "practice of medicine" shall mean:

(a) The practice of medicine by any person shall mean the diagnosis, treatment or correction of, or the attempt to, or the holding of oneself out as being able to diagnose, treat or correct any and all human conditions, ailments, diseases, injuries or infirmities, whether physical or mental, by any means, method, devices or instrumentalities.

If any person who does not possess a license to practice medicine within this state, as in this act provided, and who shall not be exempted from the licensing requirements hereunder, shall do any of the acts hereinabove mentioned as constituting the practice of medicine, he shall be deemed to be practicing medicine without complying with the provisions of this act and in violation thereof. (66-1012)

(2) Nothing herein shall be construed to prohibit, or to require a license hereunder with respect to, any of the following acts:

(a) The gratuitous rendering of services in cases of emergency and catastrophe or either of them;

(b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory, provided that if any such physician does not limit such services to an occasional case or if he has any established or regularly used hospital connections in this state or if he maintains or is provided with, for his regular use, any office or other place for the rendering of such services, he must possess a license to practice medicine in this state;

(c) the practice of dentistry under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(d) the practice of chiropody (podiatry) under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(e) the practice of optometry under the conditions and limitations defined by the laws of this state as now or hereafter enacted;

(f) the practice of osteopathy under the conditions and limitations defined in sections 66-1401 to 66-1413 inclusive, of the Revised Code of Montana 1947, as amended, or as hereafter amended, for those doctors of osteopathy who do not receive a physician's certificate under this act.

GYC:py

STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
STATE CAPITOL
4TH FLOOR
HONOLULU, HAWAII 96813

November 9, 1973

Dr. Walter B. Quisenberry
Director of Health
State of Hawaii
Kinau Hale
Honolulu, Hawaii 96813

Re: Rules and Regulations for Acupuncture

Dear Dr. Quisenberry:

By letter dated August 16, 1973, you requested our interpretation of the mandate in Senate Resolution No. 217 (1973) that the Department of Health "promulgate rules relating to the practice of acupuncture or submit reasons why this cannot be done." Specifically, you asked whether the department might hold public hearings pursuant to the Administrative Procedure Act prior to submitting the requested rules to the Senate.

Also, by letter dated August 23, 1973, you requested an opinion as to whether one department may adopt regulations which will ultimately be enforced by another agency. Specifically, you have asked whether "it is legal, in due form and technically correct for one department of government to formulate regulations, the enforcement of which requires another agency of government to act as a jurisdictional authority."

Before these questions can be answered, it is necessary to answer the fundamental question of whether the Department of Health has the statutory authority to promulgate rules and regulations on

acupuncture. If the answer is negative, there would obviously be no need to answer the questions posed in your letters.

Senate Resolution No. 217 (1973) in requesting the Department to promulgate rules relating to the practice of acupuncture states that "it appears the Department of Health has the power to promulgate rules under Sections 321-11(20) and 328-1, Hawaii Revised Statutes, for the regulation of the practice of acupuncture." It is true that the Department of Health under Sections 321-11(20) and 328-1, H.R.S., has the power to make such regulations necessary for the public health and safety respecting "devices", as defined in Section 328-1. However, Sections 321-11(20) and 328-1 do not in any way authorize the Department of Health to regulate the practice of acupuncture, as distinguished from the regulation of "devices". Nor have we found any other statute which would authorize the Department to promulgate rules and regulations relating to the practice of acupuncture.

In view of the foregoing, we conclude that the Department of Health may not promulgate the rules relating to the practice of acupuncture requested by Senate Resolution No. 217 (1973).

We note, however, that acupuncture may constitute "the practice of medicine" under Chapter 453, H.R.S. Section 453-1 of said chapter defines the practice of medicine as follows:

> "For the purposes of this chapter the practice of medicine includes the use of drugs and medicine, water, electricity, hypnotism, or any means or method or any agent, tangible or intangible, for the treatment of disease in the human subject . . ."

Accordingly, it may be appropriate to refer Senate Resolution No. 217 (1973) to the Board of Medical Examiners for consideration and possible action.

Very truly yours,

Geraldine Y. Y. Chang
Deputy Attorney General

APPROVED:

George Pai
Attorney General

"Let's take another look at that article on acupuncture."

"Want to play acupuncture?"

"Enough acupuncture—get me a couple of aspirin!"

SENATE BILL #502 -- Rep. Holmes reported that HB #999 passed without opposition in the Senate, and suggested that we hold action on SB #502 since both bills are similar.

SENATE BILL #553 -- Rep. McKittrick said he had a problem with the makeup of the board that would control acupuncture in the state. He said he would like to see it under the Board of Medical Examiners. He felt acupuncture itself is good, but he was worried about diagnosis and prognosis in relating to the treatment of pain. Rep. Olson said he felt that acupuncture is an unproven procedure at this time, and that he had no strong feelings against it, but he was hesitant to create another board of seven people to act upon the one or two applicants that may come into the state. He felt the bill should be amended to put acupuncture under the jurisdiction of the State Board of Medical Examiners. Rep. Holmes said she feared that there may be competition between acupuncture and the medical profession, and it would be difficult for the board to be fair. Rep. Bennetts added that when the testimony was given for SB #553, the medical profession called acupuncture "metaphysical humbug", so it may be hard for them to give an unbiased opinion.

Rep. McKittrick said he couldn't argue with the results of acupuncture, but he felt we have to protect the public and yet allow them the availability of this service--a balance tetween bona fide acupuncture and those who may come into the state to harm people. Rep. Olson added that he wondered if this board, as provided in the bill, would be effective with no renumeration for its members. He was he was not in agreement with the way the bill is written.

Rep. Marbut suggested that the bill be amended on page 2, section 5, by reducing the seven man board to five and indicating that one of those five must be a physician, and the remaining four be appointed by the Governor. He said this board should also be located within state government and suggested the professional and occupational licensing division. Rep. Marbut said if this amendment meets with the committee's approval, he would move to amend the bill as such. Rep. Holmes felt it was important to add to this board, one licensed acupuncturist from another state; Rep. Marbut replied that he did not want to cite that into the statutes because they may not be able to find one. He said the intent of the bill is to get acupuncture started, and he added that the Governor would try to appoint someone to the board who would be qualified.

Rep. Norman moved that SENATE BILL #553 BE NOT CONCURRED IN. Rep. Bennetts pointed out that Rep. Olson had said that there were people practicing acupuncture in the state, and we have no way of controlling them at the present time, and there should be some legislation to provide a guarantee that people who come into the state meet certain specifications. Rep. Norman said the bill in Nevada also includes herbalists, and the result of this bill will be the creation of new boards to license people such as these. He said we have to protect the people from unorthodox practice. Motion of BE NOT CONCURRED IN failed, with Reps. Jones, Norman, and Olson voting yes and the members present opposed.

Rep. McKittrick said he felt this should still be placed under the Medical Examiners. He said the demands for acupuncture are there, and

they can't ignore them.

Rep. Marbut felt that putting acupuncture under the Medical Examiners would kill the bill and moved the following amendments: 1) page 1, line 21, after the word "acupuncture" by inserting "within the division of professional and occupational licensing"; 2) page 3, line 23, delete "SEVEN (7)" and insert "FIVE (5)"; 3) page 3, line 24, delete the words "WITH THE CONSENT OF THE SENATE"; 4) page 3, line 25, after the word "PRACTITIONER" by deleting the remainder of that section, except the last sentence on lines 5 and 6; 5) page 3, line 24, delete "ONE (1)" and insert "TWO (2)"; 6) page 3, line 25, by making "practitioner" plural.

Rep. McKittrick made a substitute motion that this be punt in the jurisdiction of the state Board of Medical Examiners, and amended on page 1, line 21, by striking the word "acupuncture" and inserting "medical examiners". Rep. Olson said he agreed with Rep. McKittrick because he believed the medical examiners would look at this unbiased. Rep. McKittrick's substitute motion carried with Reps. Asbjornson, Healy, Jones, McKittrick, Norman, and Olson voting yes; and Rep. Bennetts opposed. Motion carried. The bill will be amended to change the word "acupuncture" to "medical examiners".

3SRJ

Rep. Marbut then moved that SB #558 BE PASSED FOR THE DAY SINCE SOME MEMBERS WERE ABSENT. Motion carried.

Meeting was adjourned.

Bob Lee

Bob Lee, Chairman.

Bess Wong, Secretary

case. By placing him in a neutral agency, both the prosecution and defense could have access to the facts of the pathologist. He also indicated that if it were in the Attorney General's office, it would be doubtful whether they could get someone of proper qualification to fulfill the job. Re. Driscoll asked whether the subcommittee had checked into the possibility of joining with another state to have a joint crime lab. Rep. Bennetts said she talked to the Crime Control Commission who said the regional concept of a crime lab would put the project off about ten years because the states would have to act individually, and thus delay the entire project--also, federal funding would become complicated. Rep. Bennetts moved that SENATE BILL #440 BE NOT CONCURRED IN. Motion carried with Reps. Norman, Asbjornson, Bennetts, Driscoll, Holmes, McKittrick, Olson, and Yardley voting yes; and Reps. Brown, Healy, Jones, Marbut, and Turner opposed.

SENATE BILL #502 -- Rep. Marbut said that the House Judiciary committee acted on HB #999, which contains everything that SB #502 has, and he moved that SENATE BILL #502 BE NOT CONCURRED IN. Motion carried.

SENATE BILL #553 -- Rep. Lee said he talked to the sponsor, who said it would be a good idea to put acupuncture under the Board of Medical Examiners. Rep. Marbut said that the Montana Medical Association has written a letter opposing the licensing of acupuncture, and he asked if the Board of Medical Examiners would take a stand constant with the MMA. Rep. Olson replied that he thought the Board of Medical Examiners would act independently. Rep. Yardley moved that the bill be amended by changing the board described in the bill to the Board of Medical Examiners, and AS SO AMENDED, BE CONCURRED IN. Motion carried with Reps. Bennetts and Holmes opposed; and Rep. Driscoll absent when the vote was taken. Both Reps. Bennetts and Holmes explained that they were opposed to the amendments, but in agreement with the bill.

SENATE BILL #678 -- Rep. Marbut moved that SENATE BILL #678 BE CONCURRED IN. Rep. Yardley said that other counties have high expenses for bridge and road construction. This bill merely reduces the mill levy by the saving estimated by SRS for additional federal funds. Rep. Marbut's motion that SB #678 BE CONCURRED IN carried with Rep. Yardley opposed.

Meeting was adjourned.

Bob Lee

Bob Lee, Chairman

Bessie Wong, Secretary

MONTANA
STATE LAW LIBRARY

CHAPTER NO. 317

AN ACT TO PROVIDE FOR THE REGULATION AND LICENSING OF PERSONS PRACTICING ACUPUNCTURE IN MONTANA; AND PROVIDING PENALTIES.

Be it enacted by the Legislature of the State of Montana:

Section 1. There is a new section to be numbered 66-3401, R.C.M. 1947, which reads as follows:

66-3401. **Citation of act.** This act shall be known and may be cited as the "Acupuncture Practice Act of 1974."

Section 2. There is a new section to be numbered 66-3402, R.C.M. 1947, which reads as follows:

66-3402. **Legislative finding and purpose.** The legislature finds and declares that the practice of acupuncture in Montana affects the public health, safety, and welfare and should therefore be subject to regulation and control in the public interest in order to protect the public from the unauthorized and unqualified practice of acupuncture and from unprofessional conduct by persons licensed to practice acupuncture.

Section 3. There is a new section to be numbered 66-3403, R.C.M. 1947, which reads as follows:

66-3403. **Definitions.** As used in this act:

(1) The term "board" means the Montana state board of medical examiners.

(2) The term "acupuncture" means the treatment of the human body by means of mechanical, thermal or electrical stimulation effected by the insertion of solid needles.

(3) The term "acupuncturist" means a natural person licensed by the Montana state board of medical examiners to practice acupuncture.

(4) The term "school of acupuncture" means a school where acupuncture is taught that has been recognized and designated by the Montana state board of medical examiners.

Section 4. There is a new section to be numbered 66-3404, R.C.M. 1947, which reads as follows:

66-3404. **License required.** From and after the effective date of this act no person may engage in the practice of acupuncture in this state unless he is licensed under the provisions of this act.

Section 5. There is a new section to be numbered 66-3405, R.C.M. 1947, which reads as follows:

66-3405. **Powers and duties of board.** In addition to all other powers and duties conferred and imposed upon the board by this act, the board shall have and exercise the following powers and duties:

(1) to promulgate, under the applicable provisions of the Montana Administrative Procedure Act, (82-4201 to 82-4225) rules and regulations which it determines to be necessary to carry out the provisions of this act;

(2) to adopt a schedule of minimum educational requirements, not inconsistent with the provisions of this act;

(3) to prescribe forms for application for examination and license;

(4) to prepare and supervise examination of applicants for license to practice acupuncture;

(5) to obtain the services of professional examination agencies in lieu of its own preparation of the examinations;

(6) to issue, revoke and suspend licenses as hereinafter provided;

(7) to hold hearings, issue subpoenas, administer oaths and take testimony and proofs concerning all matters within its jurisdiction;

(8) to issue commissions to take depositions of witnesses who are sick or absent from the state; and

(9) to adopt a seal, which shall be affixed to all licenses issued by the board and other official papers.

Section 6. There is a new section to be numbered 66-3406, R.C.M. 1947, which reads as follows:

66-3406. **Application for examination — fee — requirements.** (1) Each person desiring to practice acupuncture in this state shall make application for examination with the secretary of the board upon the forms and in the manner as prescribed by the board, at least thirty (30) days before the date set by the board for the commencement of the examination. An examination fee of fifty dollars ($50) shall accompany the application.

(2) A person making application shall furnish the board evidence that he:

(a) is at least eighteen (18) years of age;

(b) is a citizen of the United States, or has filed a properly executed declaration of intention to become a citizen of the United States;

(c) is of good moral character, as determined by the board; and

(d) is the graduate of an approved school of acupuncture or has completed a course in acupuncture approved by the board.

Section 7. There is a new section to be numbered 66-3407, R.C.M. 1947, which reads as follows:

66-3407. **Examination — scope of examination — retention and inspection of examination papers — reexamination.** (1) Any applicant meeting the requirements of this act shall be admitted to an assembled examination to be conducted by the board. An examination shall be held at least twice a year. The examination shall be practical in character and sufficiently thorough to test the fitness of the applicant to practice acupuncture. The examination shall be in writing, insofar as the board shall deem practicable, and shall cover such subjects as prescribed in the curriculum and taught in the schools which offer courses leading to the

degree of doctor of acupuncture, master of acupuncture, master acupuncturist, or its equivalent. Demonstration of the applicant's skill in the practice of acupuncture may also be required.

(2) Examination papers of any applicant shall be retained two (2) years by the secretary of the board and may then be destroyed. While retained the examination papers shall be open to inspection only by board members, the applicant or by some person appointed by the applicant to examine them, or by a court of competent jurisdiction in a proceeding where the question of the contents of the papers is properly involved.

(3) Any applicant failing to pass his first examination before the board may, at any subsequent meeting of the board held for the purpose of examining candidates, if otherwise qualified, take subsequent examinations upon payment of the fee of twenty-five dollars ($25) for each examination.

Section 8. There is a new section to be numbered 66-3408, R.C.M. 1947, which reads as follows:

66-3408. **License — fee.** All applicants successfully passing the examination required by this act shall be registered as licensed acupuncturists in the board register and, upon the payment of a twenty dollar ($20) license fee shall be issued a certificate of license in such form as prescribed by the board. The certificate shall bear the official seal of the board.

Section 9. There is a new section to be numbered 66-3409, R.C.M. 1947, which reads as follows:

66-3409. **Reciprocity.** A license without examination may be issued by the board to any acupuncturist licensed or certified in another state where the licensing or certification requirements are substantially equivalent to the requirements of this act, upon payment of the license fee of twenty dollars ($20) as herein provided.

Section 10. There is a new section to be numbered 66-3410, R.C.M. 1947, which reads as follows:

66-3410. **Term of license — renewal — fee — notice — cancellation.** (1) The license to practice acupuncture shall expire on December 31 of each calendar year and shall be renewed upon request of the licensee without examination. The request for renewal shall be on forms prescribed by the board and accompanied by a renewal fee of twenty dollars ($20). The request and fee shall be in the hands of the secretary of the board not later than the expiration date of the license. Any person actively engaged in the military service of the United States and licensed to practice acupuncture as herein provided shall not be required to pay the annual renewal fee or make application for renewal until December 31 of the calendar year in which he returns from military service to civilian or inactive status.

(2) On or before December 1 of each calendar year the secretary of the board shall notify each licensee by letter, addressed to his last place of residence as the same appears on the records of the board, that his license will expire on December 31 following the date of notice unless

application for renewal, accompanied by the annual renewal fee, is received by the board on or prior to that date.

(3) Immediately following December 31 of each calendar year, the secretary shall notify all licensees from whom requests for renewal, accompanied by the renewal fee, have not been received that their licenses have expired and that they will be cancelled and revoked upon the records of the board, unless a request for renewal and reinstatement, accompanied by the renewal fee and an additional fee of five dollars ($5), shall be in the hands of the secretary prior to February 1 following the expiration date.

(4) Immediately following February 1 of each calendar year, the secretary of the board shall cancel and revoke upon its records all licenses which have not been renewed or reinstated as provided by this act, and shall notify the licensees whose licenses are so revoked of such action.

(5) Any licensee who allows his license to lapse by failing to renew or reinstate the same as herein provided, may subsequently reinstate the same upon good cause shown to the satisfaction of the board and upon payment of all annual renewal fees then accrued plus an additional fee of five dollars ($5) for each year following the cancelling of the license.

Section 11. There is a new section to be numbered 66-3411, R.C.M. 1947, which reads as follows:

66-3411. **Refusal to issue, suspension, revocation of license — probation — notice — hearing — reinstatement.** (1) The board may refuse to issue or may suspend or revoke a license issued pursuant to this act for any one (1) or any combination of the following causes:

(a) conviction of a felony or conviction of a violation of any state or federal law regulating the possession, distribution, or use of any controlled substance, as shown by a certified copy of record of the court;

(b) being adjudicated incompetent or insane;

(c) sustaining a physical or mental disability which renders further practice dangerous;

(d) habitual drunkeness or habitual addiction to the use of a controlled substance;

(e) gross malpractice;

(f) engaging in any dishonorable, unethical, or unprofessional conduct which may deceive, defraud, or harm the public, or which is unbecoming a person licensed to practice under this act;

(g) the obtaining of or any attempt to obtain a license or practice in the profession for money or any other thing of value by fraudulent misrepresentations;

(h) advertising by means of knowingly false or deceptive statement;

(i) advertising, practicing, or attempting to practice under a name other than one's own;

(j) using any false, fraudulent, or forged statement or document, or engaging in any fraudulent, deceitful, dishonest, or immoral practice in connection with the licensing requirements of this act; or

(k) violating or attempting to violate, or assisting or abetting the violation of, or conspiring to violate any provision of this act.

(2) Any person, including any member of the board, may file a sworn complaint with the secretary of the board against any person having a license to practice acupuncture in this state, charging him with the commission of any of the offenses set forth in subsection (1) of this section, which complaint shall set forth a specification of the charges. When such complaint is filed, the secretary shall mail a copy thereof to the person so accused, at his last address of record with the board, together with a written citation of the time and place of a hearing thereon, advising him that he may be present in person, and by counsel if he so desires, to offer evidence and be heard in his defense. The time fixed for hearing shall be not less than thirty (30) days from the date of mailing the notice. The contested case procedures of the Montana Administrative Procedure Act (82-4201 to 82-4225) shall apply to the notice and hearing requirements of section 11 [66-3411] of this act, except that neither common law nor statutory rules of evidence need apply, but the board may make rules designed to exclude repetitive, redundant or irrelevant testimony.

(3) At the time and place fixed for a hearing before the board as provided in subsection (2) of this section, or at any time and place to which the matter may be continued, the board shall receive evidence upon the subject under consideration and shall accord the person against whom charges are preferred a full and fair opportunity to be heard in his defense and shall after consideration adopt a resolution finding him guilty or not guilty of the matters charged. If the board finds that the conditions referred to in subsection (1) of this section do not exist with reference to the person or if he be found not guilty, the board shall dismiss the charges or complaint, but if the board does find that the conditions referred to in subsection (1) of this section do exist and the person is found guilty, the board shall:

(a) revoke his license;

(b) suspend his right to practice for a period not exceeding one (1) year;

(c) suspend its judgment of revocation upon the terms and conditions to be determined by the board;

(d) place him on probation; or

(e) take such other action in relation to disciplining him as the board in its discretion may deem proper.

(4) The secretary of the board in all cases of revocation, suspension or probation shall enter in its records the facts of the action, and of any subsequent action of the board with respect thereto.

(5) Upon the expiration of the term of suspension, the licensee shall be reinstated by the board, provided the licensee shall furnish the board with evidence that he is then of good moral character and conduct and

restored to good health and that he has not practiced acupuncture in this state during the term of suspension. If the evidence fails to establish to the satisfaction of the board that the licensee is then of good moral character and conduct or if not restored to good health or if the evidence shows he has practiced acupuncture in this state during the term of suspension, the board shall revoke the license at a hearing, the notice and procedure of which shall be as hereinabove provided, which revocation shall then be final and absolute.

Section 12. There is a new section to be numbered 66-3412, R.C.M. 1947, which reads as follows:

66-3412. **Judicial review of board decisions.** Any person aggrieved by the final decision of the board may obtain judicial review of that decision. The judicial review procedure shall be the same as that for contested cases under the Montana Administrative Procedure Act (82-4201 to 82-4225).

Section 13. There is a new section to be numbered 66-3413, R.C.M. 1947, which reads as follows:

66-3413. **Deposit of fees.** All moneys received under this act shall be deposited with the state treasurer and credited to an account to be designated by him. No money shall be paid out of the fund except upon vouchers drawn against the fund, signed and certified to by the secretary of the board. All funds so credited shall be available to the board for the payment of expenses incurred by it in the performance of its duties under this act.

Section 14. There is a new section to be numbered 66-3414, R.C.M. 1947, which reads as follows:

66-3414. **Enjoining unlawful practice.** The practice of acupuncture in any way other than as defined in this act may be enjoined by the district court on petition by the board. In any such proceeding, it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found to have so practiced, the court shall enjoin him from so practicing unless and until he has been duly licensed. Procedure in such cases shall be the same as in any other injunction suit. The remedy by injunction is in addition to criminal prosecution and punishment.

Section 15. There is a new section to be numbered 66-3415, R.C.M. 1947, which reads as follows:

66-3415. **Acupuncture examinations for licensed doctors of medicine, osteopathy, chiropractic, dentistry and podiatry.** Nothing in this act shall be construed to require doctors of medicine, osteopathy, chiropractic, dentistry, and podiatry who are licensed in Montana to take further examinations in anatomy, physiology, chemistry, dermatology, diagnosis, bacteriology, materia medica, or other subjects which are or may be required for licensure in their respective professions; but no doctor of medicine, osteopathy, chiropractic, dentistry or podiatry shall practice acupuncture in this state unless and until he has completed a course and passed an examination in acupuncture as required by this act.

Section 16. There is a new section to be numbered 66-3416, R.C.M. 1947, which reads as follows:

66-3416. **Violation of act — penalty.** Any person who violates any of the provisions of this act or the rules and regulations of the state board of acupuncture shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding five hundred dollars ($500), or both.

Section 17. There is a new section to be numbered 66-3417, R.C.M. 1947, which reads as follows:

66-3417. **Severability clause.** If any provision of this act, or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Approved March 28, 1974

CHAPTER NO. 318

AN ACT TO AMEND SECTION 32-2610, R.C.M. 1947, TO ALLOW THE DEPARTMENT OF HIGHWAYS TO INCREASE THE EXPENDITURES FOR FEDERAL AID INTERSTATE HIGHWAY SYSTEMS MADE IN ANY FINANCIAL DISTRICT TO THE EXTENT OF THREE HUNDRED PERCENT (300%) MORE THAN THE AMOUNT OF MONEY ALLOCATED TO SUCH DISTRICT.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 32-2610, R.C.M. 1947, is amended to read as follows:

"32-2610. **Increases in expenditures.** (1) The commission may increase the expenditures made in any financial district to the extent of:

(a) Twenty-five *percent* (25%) more than the amount of money allocated to such district in the latest year for the federal-aid primary system or the federal-aid secondary system.

(b) *Three hundred percent (300%)* more than the amount of money allocated to such district in the latest year for the federal-aid interstate highway system.

(2) The allocation of available state construction funds to any district for the next succeeding fiscal year shall be decreased by an amount equal to any increased expenditures."

Approved March 28, 1974.

CHAPTER NO. 319

AN ACT LIMITING THE FEE TO BE PAID BY MUNICIPALLY OPER-